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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: WAC 98 204 54019

Office: California Service Center

Date:

MAR - 7 2001

IN RE: Petitioner:  
Beneficiary:



Petition: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(B)

IN BEHALF OF PETITIONER:

Self-represented

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

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FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(B). The petitioner seeks employment as a research fellow. The director determined that the petition was filed without a qualifying job offer.

On appeal, the petitioner submits job offer letters from three different employers. All of these letters are from early 1999, well after the petition's July 1998 filing date.

This petition was filed by the alien himself, on his own behalf. Service regulations at 8 C.F.R. 204.5(i)(1), however, state that a petition for an outstanding professor or researcher may be filed by "[a]ny United States employer desiring and intending to employ a professor or researcher who is outstanding in an academic field." The regulations contain no provision allowing alien professors or researchers to file petitions on their own behalf in this visa classification. The petition must be filed by the intending U.S. employer. Therefore, the petition has not been properly filed and any further discussion of the merits of the petition is moot. The petition cannot lawfully be approved. Accordingly, the appeal must be dismissed, without prejudice to any future petition properly filed by a U.S. employer with all necessary documentation and fee.

**ORDER:** The appeal is dismissed.